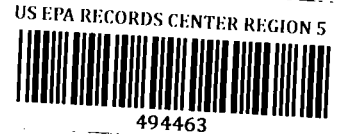


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION



UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

ACCRA PAC, INC.; and )  
KENNETH R. EVERETT and )  
DIANA LEE POWER, in their )  
capacity as personal co- )  
representatives of the ESTATE )  
of WARNER BAKER, )

Defendants )

CIVIL ACTION NO. H9-0113

Judge Miller

**NOTICE OF JUDICIAL APPEAL**

Defendant, Accra Pac, Inc., pursuant to Paragraph 55 of the consent decree entered on November 16, 1993, hereby gives notice of its appeal to this Court from the December 17, 1997 decision of the Director, Superfund Division, U.S. Environmental Protection Agency ("EPA"), Region 5.

This action arose under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq. This appeal involves a dispute concerning certain administrative findings and statements in the Enforcement Action Memorandum ("EAM") issued by EPA in rendering its decision on the Treatability Study prepared by Accra Pac.

Counsel for Accra Pac wrote to EPA May 2, 1997 and July 21, 1997, setting forth its Statement of Position. Accra Pac asked that EPA refrain from placing the EAM in the administrative record and ensure that the EAM was not published to third parties. EPA issued its

Statement of Position in a letter dated August 26, 1997. With one exception, EPA rejected the concerns raised by Accra Pac and stated, in essence, that further negotiations would be useless. EPA also stated that the EAM was already part of the administrative record and would remain so, absent an order from this Court.

Pursuant to Paragraph 55.a. of the consent decree, the Director of EPA Region V's Superfund Division<sup>1</sup> issued a final decision. His decision adopted EPA's position in toto, rejecting, with one exception, Accra Pac's request for relief.

Accra Pac requests that the Court order EPA to remove the EAM from the administrative record until such time as the agency has revised the EAM, consistent with the objections raised by Accra Pac. In the alternative, if Accra Pac and the United States are to litigate the merits of EPA's allegations in the EAM, Accra Pac will move the Court for leave to withdraw from the Consent Decree.

In order to ensure orderly implementation of the Consent Decree, Accra Pac proposes the following schedule:

On or before January 15, 1997 Accra Pac shall file a Memorandum in Support of its Appeal and Alternative Motion for Leave to Withdraw from Consent Decree

On or before February 2, 1997 the United States shall file its Memorandum in Response

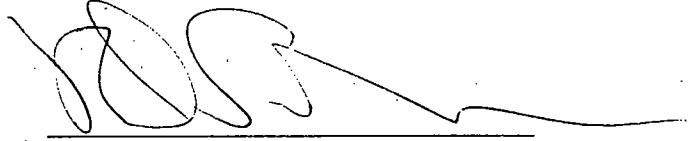
On or before February 12, 1997 Accra Pac shall file its Reply Memorandum

At the Court's earliest convenience, oral argument will be held.

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<sup>1</sup> The Consent Decree called for the decision to be issued by the Director of the Waste Management Division at EPA Region V; however, in a subsequent reorganization, the Director of the Superfund Division assumed the CERCLA responsibilities of the Waste Management Division Director.

Respectfully submitted,



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- AND -

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COUNSEL FOR DEFENDANT ACCRA  
PAC, INC.

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing document have been served this 30th day of December, 1997, by depositing into the United States mail, postage prepaid, and will be served by facsimile transmission on the 31st day of December, 1997, to the following:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044

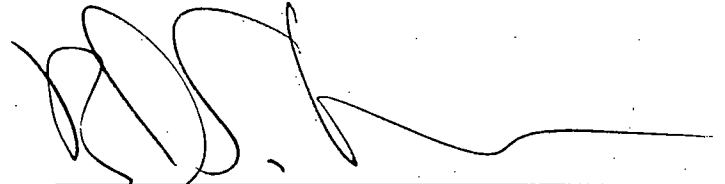
Re: DJ # 90-11-3-412

Chief, Emergency Response Branch, HSE-5J  
Office of Superfund  
U.S. Environmental Protection Agency  
Region V  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

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A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

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Richard S. VanRheenen, Esq.